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- e) medicated for the purpose of ~~treating and/or~~ medicating infants.

**Claim 21.** (Currently amended) A method as claimed in claim 12, 13 or 14 wherein in said step d) said temperature of said wipes is sensed by a temperature sensing element operative to sense said temperature of said wipes in one of the following manners:

- a) directly,
- b) indirectly,
- c) utilizing a thermostatic control containing a bimetallic strip,
- d) utilizing a thermocouple which produces varying electric potentials in response to varying temperature,
- e) utilizing a thermally sensitive electronic element which changes resistance in response to varying temperature,
- f) utilizing a thermally sensitive electronic element which changes junction voltage in response to varying temperature,
- g) utilizing a thermally sensitive heating element which changes resistance in response to varying temperature,
- h) utilizing an optical sensor which senses the optical radiation given off by said wipes.

### REMARKS/ARGUMENTS

Applicant is an individual inventor desirous of efficiently obtaining a strong patent and wishes to thank Examiner Pelham for the courtesy of additional search of the prior art in respect to applicant's newly submitted claims, as well as the thoughtful and well articulated office action.

The examiner has rejected claims 5, 11, 15 and 21 under 35 U.S.C. § 112 as indefinite for failing to recite the various embodiments in the alternative or combined. Applicant has amended

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these claims to correct the indefiniteness as well as typographical, lettering, punctuation and formatting errors as well as claims 2-4, 8, 10, 12, and 18-20, correct typographical, lettering, punctuation and formatting errors .

Applicant respectfully requests reconsideration of the 35 U.S.C. § 103(a) rejection of Claims 2, 3, 6-12, 15-21 over '766 and '750, and the rejection of claim 5 over '766, '750 and 4,810,859<sup>1</sup>.

In respect to claims 2, 3, 6-12, 15-21 the examiner points to '766 and states "US '766 inherently discloses maintenance of a specific temperature range since fuel orifice 8 is intended to supply fuel just to "warm" the wipes, hence it would supply "regulated" and not indiscriminate heating as recited in claim 3." Applicant disagrees with this interpretation of '766 and notes that '766 states "the heat given off by heater 18 [is] approximately 150 F. degrees" (column 2, line 62-63) but does not specify any range or accuracy which would lead the person of ordinary skill to believe that the temperature of said wipes is maintained over a specific range as the examiner supposes. It will of course maintain temperature somewhere around 150 degrees but will do so only over several incidental ranges depending on several variables such as the moisture content of the wipes, ambient temperature, etc. as discussed further below.

Applicant points to '766 column 3, lines 18-21 where it is stated "The heat emanated from heat sink 26 is enough to warm at least the first four wipes 22 closest to the heat sink 26." At column 1, lines 55-65 it is stated that the warmer has a "push button starting mechanism and a push button stopping mechanism." At column 2, lines 65-67 '766 states "The heater portion 18 is shown as a tall cylindrical member and is associated with a piezoelectric sparking member 15, which is turned on by push button 14." There is an off switch 50 (the push button) to turn off the flow of fuel

<sup>1</sup> The office action listed rejection over 5,738,082 however this is believed in error as the second heat control 26 is not disclosed in this reference but it is found in 4,810,859 listed on the cited references form.

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(column 3, lines 8-12, Figure 5) but it does not appear to have any fuel flow adjustment capability. Clearly the heat must be manually turned on and off, and then the only regulation mechanism is the orifice pointed to by the examiner. The orifice is apparently sized to create approximately 150 F degree heat of the heater 18 to warm "at least the first four wipes."

Once warmed the device is presumably turned off by the user to conserve fuel. If the device is left on however it is likely that the orifice, being only large enough to heat heater 18 to 150 degrees, is not large enough to create a dangerous overheating as the examiner presumes. In any event, inventors Parks and Tarlow of '766 did not make any mention of this problem, if it did exist in their device. Presumably since they know the temperature of heater 18 of approximately 150 degrees and that it warms at least 4 wipes, they did construct at least one prototype and made temperature measurements which would have led them to recognize (and mention) any overheating potential that would have existed.

There being no suggestion to the contrary found in '766, the orifice is presumably fixed in size, and the fuel pressure is presumably controlled only by the temperature and quantity of the fuel in the container. As a consequence of the fixed orifice and relatively unregulated fuel temperature, the amount of heat generated when the fuel is burned will vary considerably. There is no suggestion of sensing the temperature of the wipes, either directly or indirectly. If the warmed wipes get cold while the heat is turned off, (for example if the container is opened and the previously warmed first four wipes are removed, the heat must be manually turned on again. In short, heat is turned on or turned off manually. There is no heat control. Heat output is simply dictated by orifice size and fuel pressure at the particular temperature and volume of fuel.

Further note in Figure 4 that a liquid fuel level is shown in respect to fuel 5. The fuel appears to be vaporized to gas before it is burned, as is common for butane fluid used in portable

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appliances like cigarette lighters. Given that common gaseous and liquid vaporized to gaseous fuels will decrease pressure as their temperature decreases, the resulting decreased heat output would tend to negatively affect temperature changes of the wipes. Simply put, when the ambient temperature decreases, which would cause a decrease in temperature of the wipes (slowly or quickly depending on the insulation of the container) the lower ambient temperature will also cause a decrease in fuel gas pressure resulting in decreased heat output. This is just the opposite of what is desired in order to control the temperature of the wipes.

The '766 disclosure does suggest the use of batteries and resistance type heating as the examiner points out, (although the examiner presumes they are rechargeable) however there is no suggestion that an electric embodiment would operate any differently, i.e. the resistance of the heating element would be such that the heat output would warm "at least the first four wipes" and thus there would be no need for, or suggestion to add, heat or temperature control.

The manual and unregulated heat output operation of '766 teaches away from the types of temperature and heat output control of the claimed instant invention and does not support any suggestion to add the controlled heating based on the sensed temperature of the wipes which the examiner supplies '750 for. Accordingly applicant asserts that the combination of '766 and '750 is not suggested to the person of ordinary skill in the art by either reference and consequently is not a proper 103 combination.

The operation of '766, even if combined with '750 is also considerably different from the claimed invention. Given that the '766 and '750 combination have no suggestion of fuel pressure or flow control, the use of chemical, gaseous or liquid fuel and no way to turn a heat source fueled by such fuel on or off in response to a measure of the temperature of the wipes, those claims specifying such elements are believed allowable. Additionally, the electrical power utilized by '750 is not

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attached or integral to the container as claimed thus further distinguishing over the '766 and '750 combination. The rejected claims are believed allowable based on at least these distinctions. For example claim 3 calls for regulating temperature "by regulating the amount of said fuel consumed thereby and thus the amount of heat produced by said heat source" which is not suggested by '766 or '750. The other rejected claims have similar features not suggested by '766 or '750.

In respect to the 103 rejection of claim 5, as pointed to above '766 does not recognize any overheating potential and makes no mention or suggestion of the possibility. The device of '766 may in fact have such a low heat output (warming at least the first 4 wipes) coupled with relatively poor insulation, that no overheating is possible. Consequently there is no suggestion in '766 to prevent overheating and thus to look to '859 for the second heat control. '750 does provide over temperature protection but it is done via the same temperature sensor 22, which operates the same switch 18 that is used to control the heat source, not by a second heat control as in claim 5. Consequently '750 teaches away from the use of a second heat control.

#### NEWLY CITED PRIOR ART

As suggested by the examiner, applicant has reviewed the cited but not applied prior art and offers the following comments showing at least one (but not necessarily the only) distinction between each reference and the invention as presently claimed.

Published application US2004/0168684 shows a liquid fuel warming device for food or baby bottles. No mention of warming wipes is found. This device uses a fuel like butane, and a piezoelectric spark generator to ignite the fuel (0037) with a timer to control the on time of the flame to regulate the temperature of the food (0038). One questions how effective such regulation can be. Considerable user knowledge is likely required to warm food to any specific temperature.

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One or more push of the ignition button is used to ignite the fuel (0041). An electrical embodiment is suggested, still with a timer (0043). It may be noted however at paragraph 0010 a discussion is found of that inventor's other several U.S. patents for cordless heated appliances using liquid fuel like butane. The inventor states "... these patents do not teach or suggest [how to warm baby bottles], nor do they address the extremely important deficiency of the baby bottle warming field of overheating." This comment might well lead to the conclusion that the problems of overheating in cordless heated appliances is not well appreciated in the art or by the person of ordinary skill therein as of the December 2002 filing date.

Anabtawi et al. 4,810,859 shows an electric heating element which is wrapped around a box of wipes. The element is powered from a 120 volt outlet. The heating element has three thermostats and a thermal over temperature fuse (column 3, lines 1-9). There is no teaching of the use of liquid fuels, batteries or many other features claimed in the instant invention.

Fant et al. 3,804,076 shows a baby bottle warmer utilizing liquid fuel burning wick which heats a mantle. No teaching is found of warming wipes or of temperature regulation or overheating protection or many other features as claimed in the instant invention.

Creighton et al. 6,234,165 shows a baby bottle warmer which utilizes an exothermic reaction to generate a heated gas that warms a baby bottle. In one embodiment the exothermic reaction is accomplished by releasing a saline solution into a magnesium wafer (Abstract). There is no teaching found of warming wipes or of temperature regulation or overheating protection or many other features as claimed in the instant invention.

Holley, Jr. 6,703,590 was first filed February 5, 2003, just 4 days before the priority date of the instant application. Applicant reserves the right to swear behind this reference. In figure 3 Holley shows a baby bottle warmer with a heat generator 310 which is powered by a fuel source

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219 which is contained in a canister or a battery 230 (column 4, line 1). Fuel from the fuel source is switched by a valve 312. The valve is controlled by a control/sensor 315. The "controller/sensor 315 is provided to control the heating process by, for example, limiting heat generation to a predetermined period of time, or by sensing the temperature of heat transfer element 220" (column 4, lines 52-55). Note that 220 is the container which holds the baby bottle (Figure 4(B)). "When the heat generating system is turned on, valve/switch 312 facilitates the flow of fuel to heat generator 310, which in turn generates heat that is transferred to heat transfer element 220 (column 5, lines 55-58). "When the beverage stored in liner 100 is subjected to heat for a predetermined period of time, or the upper portion of heat transfer element 220 reaches a predetermined temperature, controller/sensor 315 transmits a control signal to switch 312 that terminates the flow of fuel to heat generator 310 (column 5, lines 61-66). There is no indication of any further heating taking place. once the predetermined period of time elapses or the heat transfer element 220 reaches a predetermined temperature. The temperature of the heat transfer element 220 will not be maintained, and will start to decrease as heat is transferred from 220 to the baby bottle. For any given predetermined period of time or given predetermined temperature of 220, the temperature of the baby bottle will rise to some unknown value depending on the amount and type of liquid in the bottle, and thus there is no action which maintains the temperature of the baby bottle, it is merely heated to some approximate temperature. There is no suggestion of using Holly's invention to warm baby wipes.

Bell et al. 6,289,889 is a self heating package, typical of the exothermic type packages suggested in Page et al. 5,738,082 which is discussed in the specification at paragraph 0004.

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Fish et al. 6,827,080 is a package for holding and upon breaking of a frangible seal mixing reactants, such as those used in exothermic reactions suggested in Page et al. 5,738,082 which is discussed in the specification at paragraph 0004.

Motsenbocker 6,497,341 is an electrically heated towel dispensing device wherein the towels may be pre-moistened with different fluids and warmed to different temperatures prior to being dispensed (abstract). A heating member 30 is used wherein "it is also contemplated that other sources of electrical power are possible with the present invention, including, but not limited to batteries, rechargeable batteries, rechargeable battery packs, separate charging stands, or solar power devices (column 2, lines 63-68). A "warming chamber 14 can be warmed to a distinct temperature by a separate temperature controller 34" which "is electrically connected to, and controls the degree of radiant heat generated by, the individual heating members 30 (column 3, lines 10-20). Towels can be "heated to the desired temperature and maintained in a desired temperature range by the temperature controller 34 (column 3, lines 31-34). Optionally, a heat intensity controller 50 can be provided ... for the purpose of controlling the degree of heat to which the heating element 30 warms the warming chamber 14. "Examples of heat intensity controllers ... include, for example, a mechanical thermostatic control assembly, an electronic thermostatic control assembly and the like" (column 5, lines 4-11). There is no suggestion of any heating method other than electric. While batteries are mentioned, there is no teaching of a renewable energy source attached or integral to the container as in claims 2 and 12. Presumably cord 28 would be plugged into an external battery or battery pack. There is no suggestion of a renewable chemical, liquid or gas energy source as claimed in claims 2, 3, 12 and 13 or of an exothermic energy source as in claims 4 and 14.



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Levin 6,316,750 shows a device for warming medical pads such as alcohol moistened pads used to clean skin before drawing blood (column 1, lines 15-25). In that the examiner has used this art with Parks 6,528,766 as part of the 103(a) rejection discussed above, and was only cited for the use of controlled heating of moist medical pads based on the sensed temperature of the pads, it is believed less pertinent than the '766 reference. There is no suggestion of any heating method other than electric and hot water as a back up (column 4, lines 28-62). While a battery 21 is shown that battery is not used to power the heat source (Figure 10, column 5 lines 63 – column 6 line 25). There is no teaching of a renewable energy source which stores the energy in electrical or chemical form, is used to generate heat and is attached or integral to the container as in claims 2 and 12. There is no suggestion of a renewable electrical or chemical energy source as claimed in claims 2 and 12, or a liquid or gas fuel as claimed in claims 3 and 13 or of an exothermic energy source as in claims 4 and 14.

JP11-197049A shows a container for heating wet tissue paper. The container includes an electrically powered foil heater and power applied to the foil heater is controlled by a temperature sensor which detects the temperature of the housing 24. The wet tissue paper is housed in 24. When the power switch is turned on the wet tissue papers are sterilized by the use of two foil heaters and the temperature of the housing is raised to approximately 80 (degrees C.). This temperature is unsuitable for baby wipes and thus the reference appears to be less pertinent than '766 and '750 from which the instant 103 rejections result.

JP2000-126075A shows a pocket body warmer for wet tissue which utilizes oxidation heat of iron powder as the heating source. The English translation part does not mention any temperature control and the drawings do not appear to show any temperature control mechanism. This reference appears to be less pertinent than the prior art device of Page et al. '082 which is discussed in the

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specification which suggests use of dry heat organic oxidation packs (column 3, line 10) and appears less pertinent than '766 and '750 from which the instant 103 rejections result.

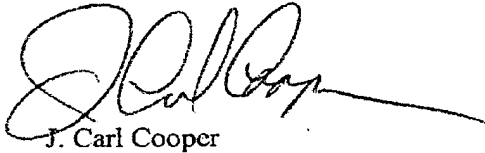
In that the application is believed in form for allowance, further action in that respect is respectfully solicited.

Respectfully Submitted,



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I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office, Fax No. (703) 872-9306 on August 14, 2005.



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